

**FY 2003 Nevada BLM Energy & Minerals Leadership Workshop  
Report**

**Appendix**

# Appendix I- Workshop Agenda

## 2003 Nevada BLM Energy & Minerals Leadership Workshop

Peppermill Hotel Casino  
 Redwood/Sequoia Conference Rooms  
 2707 S. Virginia Street  
 Reno, Nevada  
 775-689-7244 (Peppermill)  
 775-861-6567 (BLM)  
 February 6, 2003

**Workshop Themes:**

1. Collaboration
2. Sharing best management practices

**Workshop Product:** A List of External Customer Issues Concerning Energy and Mineral Resource Management on Public Land in Nevada

<u>Date/Time</u>	<u>Drtn</u>	<b>FY 2003 Topics</b>	<b>FY 2003 Speakers</b>
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<b>Thursday, February 6, 2003</b>			
8:00 – 8:15 am	15 min	Welcome & Introductions	Steve Salzman, Acting Deputy State Director, Minerals Management
8:15 – 9:15	60	Mining Industry Issues	Nevada Mining Association
9:15 – 9:30	15	BREAK	
9:30 – 10:30	60	Nevada Division of Minerals (NDOM)	Al Coyner
10:30 – 11:30	60	Environmental Issues <ul style="list-style-type: none"> <li>- Great Basin Mine Watch</li> <li>- Sierra Club</li> <li>- Mineral Policy Center</li> <li>- Native American Issues</li> </ul>	Dr. Tom Myers Dr. Glenn Miller MPC Representative Native American Representative(s)
11:30 – 12:30 PM	60	LUNCH	

# Appendix I- Workshop Agenda

## 2003 Nevada BLM Energy & Minerals Leadership Workshop

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12:30 – 1:30	60	Environmental Issues (Cont'd) <ul style="list-style-type: none"><li>- Great Basin Mine Watch</li><li>- Sierra Club</li><li>- Mineral Policy Center</li><li>- Native American Issues</li></ul>	<ul style="list-style-type: none"><li>- Dr. Tom Myers</li><li>- Dr. Glenn Miller</li><li>- MPC Representative</li><li>- Native American Representative(s)</li><li>- Donna Noel</li></ul>
1:30 – 2:30	60	NV Division of Environmental Protection (NDEP) Issues	Dave Gaskin
2:30 – 2:45	15	BREAK	
2:45 – 3:15	30	Resource Advisory Councils (RAC)	<ul style="list-style-type: none"><li>- Jerry Hepworth</li><li>- John Mudge</li><li>- Bill Upton</li></ul>
3:15 – 3:45	30	Open Public Session/Discussion	
3:45 – 4:15	30	Closeout	Steve Salzman

## **Appendix II – Comments of the Nevada Mining Association**

### **2003 BLM Energy & Minerals Workshop**

#### **Comments by the Nevada Mining Association (Jonathan Brown)**

The Nevada Mining Association is pleased to be here this morning and appreciates the opportunity to comment on BLM's state minerals program. We are here to give our view as to what is working well, share our thought on the direction of the industry, and offer some suggestions for overall program improvement.

#### **What is working?**

1. Willingness of BLM (Districts and SO) to talk with industry about issues and search for viable solutions:
  - a. Bonding Task Force
  - b. 3809
  - c. Transparency of NEPA process
2. Willingness of BLM to partner with industry on the securing of AML:
  - a. Las Vegas District
    - i. Archeological Clearances
    - ii. Issuance of Bats and Tortoise Clearances
    - iii. Looking forward to expanding the program in 2003
3. Inter-Agency MOU Revision completed this past summer

#### **Industry Forecast:**

1. (H)igher (G)old (P)rices = (M)ore (W)ork

If current gold prices hold or increase during 2003, mining companies will most like increase their spending on:

- a. Exploration activities
- b. Expansion of existing operating plans
- c. Possible new plans

Regulatory agencies under this scenario can expect workloads to increase particularly with respect to the following :

- a. Increased exploration permitting
- b. More plan modifications
- c. Potential for new plan applications
- d. NEPA activity
- e. Increased coordination to eliminate dual review/approval

Since mining projects must compete for capital with other investment option, this increase in spending could be substantially offset by:

- The availability of non-cash intensive bonding options
- Cost of these bonding options
- Length of permit approval process

## Appendix II – Comments of the Nevada Mining Association

\* I have asked John Mudge with Newmont to speak in more detail about this issue.

Consequently, we offer the following suggestions on ways to improve BLM's minerals program in Nevada.

### **Suggested Areas for Improvement:**

1. Adjudication of bonds– can take a long time! (Ex.seven months) Companies presently can't proceed until the SO adjudication letter is received.
  - a. Need to look at potential mechanisms to streamline the issuance of SO adjudication letter.
    - i. Established accounts
    - ii. Wire transfer confirmation.
    - iii. Acceptance of letter of credit.
2. Suggest reviewing State Office policy of extinguishing corporate guarantees first, prior to returning any cash.
  - a. Consideration of more equitable alternatives.  
For Ex. Use pro-rata based on ratio of corporate guarantee vs. other instruments.  
Ex: \$1,000,000 Bond is 50% corporate guarantee and 50% other.  
Any bond release should be in the same proportions as the bond is held. In this example 50% of the release amount should be through extinguishment of the corporate guarantee amount, and 50% as other.
3. The current administrative fee mechanism as applied to bond calculations.
  - a. Current contract administrative fee is too high.
  - b. Uncertainty regarding additional administrative fees
    - i. Regional
    - ii. National
  - c. Contingency fees
  - d. Suggest looking at benchmarking with other federal agencies
4. Suggestion to minimize Program inconsistencies:
  - a. Suggest implementing an administrative audit/review system with SO guidance that include appropriate schedules and timeframes to eliminate inconsistencies between Districts on implementation of policy on issues like:
    - i. The NEPA process
    - ii. Archeological reviews
    - iii. Wildlife issues (i.e. sage grouse, etc.)
    - iv. Permitting
      1. NDEP coordination

## Appendix II – Comments of the Nevada Mining Association

### v. Bonding

1. Releases – (timely, one agency approval not both)
  2. Calculations – (high level of detail employed in these calculations, detail can lead to long review time and lengthy exchanges over these smaller details. Can a broad-based approach be developed to streamline the review and cost finalization process (particularly with respect to the more minor cost items)?
5. Suggest looking in to an administrative review process or establishment of an Ombudsman to facilitate resolution of conflicts:
  - a. Regarding Technical Report
  - b. NEPA alternatives
  - c. Permit coordination issues with NDEP and others.
6. Suggest formalizing a process to involve permittees, and the interested public **early** in the District program Planning process, in the development of IMs, policies, guidance documents (handbooks, manuals, etc.).
  - a. Will help give permittees a heads up on District workloads
  - b. Anticipate increased costs to permittee to comply
7. The Native American consultation process is not working well. We suggest the formation of a panel to search for a new and more effective process.
8. AML:
  - a. Strategic long-term coordination and funding for “on the ground” Nevada AML securing activities (i.e. Fencing, gating, backfilling). Currently year-to year.
  - b. Need to look at the possibility of a programmatic EA/EIS for a statewide AML program (not just Clark County).

## **Appendix III – Comments of Northern – Sierra Front RAC**

2003 BLM Energy & Minerals Workshop  
**February 6, 2002**  
**Reno, Nevada**

Jerry Hepworth, Energy & Minerals  
**Northwestern - Sierra Front RAC**  
**Environmental & Loss Control Manager, Coeur Rochester, Inc.**

It's a pleasure to be here today and offer some of my thoughts as a RAC member, as well as a mining industry representative with over 28 years experience in Northern Nevada. This is my second term on the RAC and I've been at the Rochester Mine for just over three years. I'm proud to be at Rochester, it's a world-class property, with a great history and the people are just fantastic.

I've reflected somewhat on my mining and RAC experience and conclude that I've learned or reaffirmed three very important things:

- 1) First, the BLM has a very full plate. As our RAC members recently reviewed the CC and WMC FO activity schedules for 2003, this thought came home in full. The depth and breadth of resource issues managed by the BLM is overwhelming and it's easy to see why the agency is so easily criticized. For the most part, I don't believe this criticism is justified.
- 2) Second, there are many talented and dedicated BLM employees. Over the years, I've worked in four Nevada BLM Districts and have generally found that BLM employees are up to the task. But then, there's the reality of increasing workloads and static or reduced resources and changing political priorities.
- 3) Third, in the broad spectrum of public involvement, there are scores of well-meaning people who are absolutely committed to their cause – wild horses, grazing, bats, noxious weed control, banning mining and on and on. In my view, these people have every right to express and support their cause, but quite often let their zeal for the cause blind them from the broader interconnected issues that lead to real positive change.

In my 28 years in mining, I've always tried to do the right thing – for the health & safety of our employees and the protection of the environment. The companies I've worked for, including Rochester, have received recognition for their safety and reclamation efforts, with Rochester winning the Nevada Governor's Award for Excellence in Mine Reclamation last year for our work with bats at our Nevada Packard Project.

The mining industry has long promoted the importance of mining to our everyday way of life and I think that most of us here today accept that as fact. According to the USGS Minerals Yearbook – 2000, “over the span of the 20<sup>th</sup> century, the demand for metals and minerals in the U.S. grew from a little over 160 million tons to about 3.3 billion tons.” That's an average annual growth rate of over 30 million tons. This equates to 3.6 million pounds of minerals, metals and fuels required for each of us in a lifetime.

## **Appendix III – Comments of Northern – Sierra Front RAC**

Unfortunately, most of the general public has lost its connection to the basic industries such as agriculture and mining. Milk comes from the supermarket and cars from Detroit, Japan or elsewhere. “Not-in-my-backyard” is the common cry for virtually all development these days and mining is keenly aware of the “public license” required to mine.

This public perception, or the “license” to operate, has driven another type of development over the years - regulatory programs. Taken one at a time, each program has merit, but taken cumulatively they have imposed an inequitable burden on the domestic mining industry in the world marketplace.

Most international mining companies, Coeur included, apply the same North American EHS standards at foreign operations. All things being equal on the EHS and resource value fronts, if a foreign operation can gain approvals in a quicker more predictable timeframe, monies will be spent there not here – the jobs will be there not here. As an example, we were granted approvals for a small open pit development in Argentina in three weeks, even though eight agency approval signatures were needed.

At Rochester, 2003 will be a capital-intensive year, since we must move our tertiary crusher for the ores discovered beneath the existing facility. With our South American operations having fantastic exploration success, and more timely government approvals, Rochester will be given minimal exploration funds. Exploration is the lifeblood, the research and development, for any mining company, but there’s only so much money to go around each year.

As businesses, mining companies need to know three basic things in order to invest money effectively: 1) What do we have to do? 2) How long will it take? & 3) How much will it cost? Unfortunately, many regulatory programs, particularly NEPA, are not predictable and can go on for years and years with no cost limits. This level of uncertainty is not reflected in many foreign regulatory programs.

In the spirit of continuous improvement and based upon my fairly long tenure in Northern Nevada mining, I’d also like to reflect on some of the issues discussed earlier by Jonathan Brown of the Nevada Mining Association, as well as some of my own.

So, what are some of the things we can continue to work on together? Here’s my short list:

- 1) Being consistent.
- 2) Streamlining NEPA.
- 3) Conflict resolution.
- 4) Bonding issues.
- 5) Policies vs. Regulations.
- 6) Planning together.



## **Appendix III – Comments of Northern – Sierra Front RAC**

Being consistent. Sounds easy, but consistency is difficult to accomplish in any organization. As I said earlier, I've worked in four BLM FO's and experienced, first-hand, the differences between FO's, which are sometimes quite dramatic. To begin, BLM should review existing IM's, handbooks and manuals, modify as needed and re-implement to each FO. This way each FO is getting the same reference and the same training. For most of you, I'm sure you view this as a daunting task on an already full workload, but it's one way to meet the consistency issue head on.

Streamlining NEPA. I originally talked with Billy Templeton, then State Director, about this subject in 1996. Since then, a new policy concerning DNA's has been implemented and numerous court decisions have effected the way NEPA is administered. A revision of the handbook to reflect these changes is needed. Also, let's take a look at the 3809 "NEPA trigger". In other words, how complete does the 3809 proposed action document need to be prior to initiating the NEPA process? In my view, these two processes can and should be concurrent. Also, the BLM could save an incredible amount of time and work by appropriately utilizing DNA's and EA's – everything does not require an EIS.

Conflict resolution. When dealing with the broad-based issues of resource management, inevitably there are differences of opinion. In the 3809 and NEPA processes, there should be a formalized method of resolving technical issues in a timely manner. An Ombudsman position is one way this could be accomplished. This process should be available to BLM, industry, consultants and the interested public.

Bonding issues. Rochester has undergone a rather unique situation revolving around our surety company's bankruptcy, through no fault of our own. In a cooperative effort, BLM, NDEP and Coeur have developed and implemented a replacement bond agreement. Simply, this replacement involves cash, per ounce production payments, another surety (guaranteed by the underlying re-insurance company) and aggressive concurrent reclamation. We'd like to thank all those involved for their extra effort and perseverance.

Bonding will remain a challenge for mining and other industries, and we hope that BLM and NDEP will continue to work with the mining industry to develop innovative solutions to this complex issue.

Policies vs. regulation. There's a lot of room to address site or resource specific issues with policies, if BLM so chooses. Policies should be guidelines in the decision-making process, not "black and white" like so many regulations. With policies, given reasonably similar circumstances, should result in reasonably similar decisions. Handbooks and manuals also fall into this more flexible category. In management, policies are the "should or could", while regulations dictate a finer line of right and wrong. It's been my experience that most managers, in and out of government, tend to administer policies like regulations. We can do better here. Of course, the interested public should be given an opportunity to review and comment on policy changes.

## **Appendix III – Comments of Northern – Sierra Front RAC**

Planning together. Proper planning is a business fundamental in any organization. Project management schedules should be jointly developed and followed. I've had pretty good success with project schedules in the Elko and Winnemucca FO's.

BLM should also ask all mining permit holders what their plans are for the next year. It's my understanding that the BLM forward-looking planning process is in the fall of each year, which coincides with many mining company budget cycles. This would allow BLM and the mining company to decide if additional resources are needed, such as the Glamis/Rochester co-hosted worker in Winnemucca.

BLM should continue to be proactive in the land sales and exchanges, to better manage mixed ownership lands, such as the railroad "checkerboard", while also retaining those identified lands with resources for which public ownership must be retained or acquired. This would foster the development other beneficial post-mining land uses, such as wind and geothermal power, landfills and aggregate industries, and would put real teeth into sustainable development for rural Nevada.

Finally, we all should realize just how rare economic mineral deposits are. We could use existing regulatory programs, as a model, to address this rarity and I suggest that all active mines be listed under the new Endangered Businesses Act. The new EBA would, of course, be modeled after the existing ESA. This would require a complete consultation process, with NEPA and the development of a Recovery Plan. The Recovery Plan would highlight the strategic need of a domestic mining infrastructure for our continued way of life. Pipe dream? Perhaps we should ask al-Qaida, Iraq and North Korea.

In closing, I again want to thank BLM for the opportunity to serve on the RAC and to share some of my thoughts with you today. I am very confident that the RAC system is working and that the counsel offered to BLM is of the highest quality. I am also confident that the mining industry will remain a major part of Nevada's economy for years to come, and we will continue to serve our nation well.

Thank you.

## **Appendix IV – Presentation of Great Basin Mine Watch**

### **Great Basin Mine Watch BLM Minerals Roundtable February 6, 2002**

[This outline taken from a MS Power Point slide presentation by Dr. Tom Myers]

#### **Mission Statement**

- GBMW serves to protect the people, land, air, water and wildlife from destructive mining.
- We are not anti-mining, we are pro responsible mining.

#### **Two Major Programs**

- Environmental protection: water resources, air pollution, reclamation, bonding, etc.
- Stopping bad mines: biodiversity, wilderness, sacred lands, cultural resources

#### **Purpose of Presentation**

- Asked to tell the BLM what our issues are.
- Provide a list.

#### **Issues in our presentation**

- Apply for Tom's position
- Reclamation bonding
- Long-term trust funds
- Perpetual treatment
- Closure
- Modeling and uncertainty
- Environmental sustainability

#### **BLM and NDEP**

- Agree with NMA on the issue of better coordination between BLM and state
- Agencies have two different missions.
- NDEP implements pollution laws.
- BLM (and FS) manages land on behalf of the American people
- Not always the same.

#### **Heap Closure**

- End the practice of discharging through a French drain into the ground.
- Repeal or change interpretation of the Bevill Amendment.
- Establish long-term trust funds for the French drain.

#### **Perpetual treatment**

- Bad idea to permit mines with planned perpetual treatment.
- BLM should obtain sufficient data in advance to determine whether AMD will need to be treated forever.

## Appendix IV – Presentation of Great Basin Mine Watch

- When need is discovered post-mining, the BLM must establish a long-term trust fund.

### Reclamation Bonding

- What is the status of updating bond calculations as reqd by 3809 regs?
- All should be done by now. How many plans remain w/o bonds?
- How many plans have not been updated for fluids management?
- All plans should have bonding for closure.

### BLM Oversight of the Corporate Guarantee Program

- 3809.574 ... existing corporate guarantees.
- (a)...approved BLM and State agreement... Not a part of MOU, we'd like a copy of the agreement.
- How does BLM define a corporate guarantee?

### Corp guarantees (cont)

- How does BLM provide input into the state's corporate guarantee program?
- We support, and believe it is required by the regs, the BLM's policy of eliminating corporate guarantees first.

### Long-term Trust Funds

- "When BLM identifies a need for it, you must establish a trust fund or ... to ensure the continuation of long-term treatment to achieve water quality standards and for other long term, post mining maintenance requirements."
- Long-term trust funds (cont)
- Does the BLM have a means for determining what is a need? BLM should establish a standard that all can look at.
- Does the BLM have a plan for assessing existing treatment problems?
- Heap seepage leachfields require maintenance in perp, therefore a lttf.

### Long-term trust fund (cont.)

- Pit lakes need a trust fund to monitor and fix water quality issues until they are 90% full.
- Don't trust models.

### Sacred lands

- It is time for the BLM to start denying mines that destroy sacred sites, sacred mountains, significant cultural resources.
- Is there a threshold in the definition of uud that would allow the BLM to deny a mine?
- Need for a sacred lands protection act at state or federal level.

### Abandoned Mine Lands

- We have focus on mines that have active discharges or where ephemeral flow goes through tails.

## Appendix IV – Presentation of Great Basin Mine Watch

- Perry Canyon
- Tybo
- Matumas Canyon

### Consultants

- In the interest of objectivity, we recommend that the BLM not always use the company's prime consultant.
- It is not possible for a consultant to be objective if a large portion of their income comes from that company. Consultants don't do objective science.

### Groundwater Models

- A prediction is neither conservative or liberal, it is merely a best value, or expected value, if the modeler objectively calibrates it.
- A prediction is expected value: 50% chance that results will be worse, 50% that they will be better.
- Ie, a porous media model is a poor substitute for studying flow in fracture systems.

### Groundwater Models (cont.)

- Consider flow through fractures v porous media.
- Consider Darcy velocity and actual velocity.
- Actual velocity equals Darcy velocity/fracture flow area.
- Contaminants move at actual velocity.
- Fractures provide pathways; impossible to monitor adequately.

### Geochemical models

- Uncalibrated and unvalidated
- No data to calibrate in-situ the chemical reactions.
- No models have been field validated.
- Is it conservative to assume that 100% of the pag becomes oxidized? Maybe, maybe not if blended.

### Geochemical models (cont)

- Blended values versus uncertainty.
- Models must start considering the geostatistical properties of the PAG.
- The average acidity values tell us far less than the range and the covariance of the spot measurements.

### What's the answer?

- Understand uncertainty.
- Stochastic modeling.
- Bonds and trust funds for uncertainty.
- Use the precautionary principle.
- The BLM must assume that pollution will occur and plan for it with monitoring and mitigation plans.

## **Appendix IV – Presentation of Great Basin Mine Watch**

### **Environmental Sustainability**

- With gold prices increasing, there are chances for the industry to perform better. Sustainability is not just meeting the bare minimal standards as implemented by NDEP, it is going out of their way to do well by the people who will be here long after they've left.
- More people from rural areas are expressing their concerns to us about exactly this issue.

### **Conclusion**

- Many issues, many opportunities to talk.
- We appreciate the opportunities that the BLM (and NDEP) gives to meet to talk about issues. We also recognize that we won't agree on everything.

## **Appendix V – Comments of Nevada Division of Environmental Protection (NDEP)**

### **Nevada Division of Environmental Protection (NDEP)**

**by  
David Gaskin**

Thank you for inviting me here.

A few main areas I'd like to talk about:

- Coordination
- Consistency
- Bonding

#### **A. Coordination**

NDEP and BLM have a very "special" relationship, with many challenges. We try to regulate mining in a joint process that minimizes duplication and conflict. Are we always successful? No. But we keep trying. I believe we have made a significant amount of progress over the past few years, due to hard work on both sides, and in the middle -by Craig Smith, our liaison.

We have a Memorandum of Understanding to help our agencies work together. Who here has actually read the MOU?

The following are some specific areas where we see a need to improve coordination:

1. Need better Coordination. Follow the MOU. Advise the District staff of changes in the new MOU, which include the requirement for a 3-way coordination meeting between NDEP, Operator, and BLM for New or amended plans of operation. These meeting needs to include BLM NEPA personnel, to help establish reasonable timeframes for review and approval, prevent duplication of efforts and to streamline the overall process. NDEP has not been receiving calls from BLM for these joint meetings when they have initial contact with potential permittee.
2. Share information. We still have operators not providing both agencies the same information. When a BLM staff person receives changes or updates to reclamation plan or Plan of operation, check cover letter to see if NDEP has been copied. If not direct the operator to provide NDEP a copy (NAC 519A.160) for its concurrent review, give NDEP a call or email and inform us BLM has received changes.

## **Appendix V – Comments of Nevada Division of Environmental Protection (NDEP)**

3. We need to work on better coordination for bond release inspections. When BLM receives request notify NDEP see if we can both attend. Since we cover the entire state we need some advance notice to make arrangements.
4. The joint BLM/NDEP application form has been modified by the BLM without knowledge of NDEP. Changes to the joint form should be made jointly. The bonding instructions issued in 2002 made a change to the cost estimate summary, regarding the add-ons for insurance (threshold changes from \$25,000 to \$100,000). The requirements are different, depending what form the operator fills out. Currently the Nevada BLM Web page provides both versions. Need to revisit the joint form and make changes (jointly) to address inconsistencies such as the one mentioned above and to obtain additional information that maybe required due to regulations changes. NDEP suggests changing the form to remain as a joint reclamation plan, but have BLM develop a separate checklist to include the information required for a plan of operations to meet the new 3809 regulations.
5. Since 3809 has been revised to include additional information in the Plan of operations and reclamation plan to that may also be a requirement for the regulation and closure branches (i.e. conceptual designs for processing facilities, water management plans, rock characterization and handling plans, quality assurance plans, post closure management, monitoring plans, and interim management plans) NDEP (closure and regulation branch) and BLM need to work together to develop guidance to streamline and prevent duplication.
6. It would help if we know what you are working on. How can NDEP become informed on current NEP A proposals that each District is working on? Mailing list? Does each District publish a project and planning schedule?
7. How do we work with BLM staff to get reclamation plans and bond costs estimates approved for existing operations?
8. How do we work with BLM staff to prioritize, review and approve 3 year cost updates? What is the process to determine when projects need to provide a 3-year update?
9. Once a bond has been forfeited to the BLM, we need BLM to proceed with the contract process and to work with NDEP to establish priorities to develop the scope of work. Several bonds have been collected but BLM has not moved forward with the scope of work and contract process. We are losing the limited dollars to inflation and not addressing potential environmental concerns. The Paradise Peak facility is a good example where BLM has had the bond money for 2 years and yet no action has been taken at the site. We also need BLM to dedicate resources and staff to start the PRP process and to pursue the potentially responsible parties for several of these projects. We need BLM to proceed with the Bond forfeiture process on Atlas Gold properties. The BK has been resolved



## **Appendix V – Comments of Nevada Division of Environmental Protection (NDEP)**

by the courts, the reorganized company has meet with BLM and NDEP and stated they are surprised BLM has not made its demand on the bonds. NSO needs to make this a priority for staff.

10. We still need to work with the BLM and operator to ensure the reclamation plan or permit establishes the revegetation criteria for bond release, as outlined in the guidelines established in 1998. New plans and amendments are usually not including this information.

11. Need to update our contact project list with current staff for both agencies.

12. Request that BLM staff copy BMRR with correspondence resulting from all quarterly cyanide inspections. NDEP routinely copies the BLM on our inspection follow-up letters, but we receive only limited information regarding BLM inspections. In an attempt to improve coordination and cross training, we are encouraging BMRR inspectors to attempt to coordinate at least one inspection per year with BLM staff at each site as respective schedules allow.

13. Question -when BLM kicks a permitted operator off of a site, who then becomes responsible for the permit compliance issues? Since BLM is preventing the operator from accessing the site, should BLM then clean it up? One such example is the Phoenix Metals site in southern Nevada

### **B. Consistency**

Working closely with another agency is challenging at best. When one of the agencies has field offices spread allover the state, consistency becomes a critical issue. We try to adapt our policies to be consistent with BLM's policies, but when each district has its own ways of doing things... it's like herding cats. The following are some specific areas where a little more consistency would help us out:

14. Please clarify who is responsible to ensure the reclamation plan and cost estimate are revised to be consistent with the approved action in the NEP A document? The operator or the BLM, or both? When should this occur?

IS. Is bonding for contingency discretionary at the District level? It appears some staff requires bonding for contingency, and some staff allows operators to exclude this line item. Please discuss with District staff the current NSO policy to include contingency in the bond cost estimate, and how the current 3809 language addresses bonding for contingency.

16. Is bonding for mitigation requirements (i.e. pit backfilling) that are identified in the NEPA document discretionary at the District level? It appears some districts require bonding for pit backfilling to ensure its completion, but other

## **Appendix V – Comments of Nevada Division of Environmental Protection (NDEP)**

Districts treat pit backfilling as an operational issue and do not require bonding. It appears some projects are burdened with additional bonding costs for this activity and some are not. Is there a policy to provide consistency?

17. Is there any requirement that a bond be posted prior to the plan of operations being approved? It appears some Districts send a bond decision letter that require a bond to be established prior to plan approval and upon an verification that an acceptable surety has been provided they send another decision letter approving the Plan of Operations. Other Districts appear to use one decision letter that approves the Plan of Operations, determines the bond amount and establishes a timeframe to establish a bond. Are both methods acceptable? If the latter method (one letter) is used, what is the process and who is responsible to ensure the bond is provided within the established timeframes?

18. There seems to be a significant difference in the regulatory approach between BLM districts.

### **C. Bonding**

Bonding.

At the mere mention of that word, I see people cringing in the audience. I don't think anybody really likes doing bonding. We all know it is important. It is our safety net when an operator fails. When you have a good bond in place, it's a wonderful feeling (for the regulator anyway; the operator may have other feelings). And when you don't have a good bond in place, the feeling is not so good. Here are some questions we should ask ourselves:

19. Do 100% of existing projects have bonds posted? If not what is the plan to get these projects bonded?

20. Have 100% of the existing projects updated their bond costs to comply with the new 3809.505 requirements? If not what are BLM's plans to complete these updates? Is there a way to establish temporary resources in the NSO to work with the Districts to complete these updates?

21. It appears that the requirement for bonding notices has slowed down the bond adjudication process for other projects. What is the current backlog? What can be done to improve the timeframe for approval?

### **D. Conclusion**

In conclusion, I believe we have a much better relationship with BLM than 10 years ago. There are a number of changes that may occur in the near future, which could have

## **Appendix V – Comments of Nevada Division of Environmental Protection (NDEP)**

serious impacts on the way we do business. These changes could place a greater burden on the BLM. In addition, the rising price of gold could dramatically increase the number of projects coming in. It is a challenge to do our jobs properly with the resources we have now; an increase in workload could make things even more difficult. Coordination and cooperation are becoming more important than ever.

I appreciate your willingness to come together in this forum and listen to our comments. You have my commitment that our agency will continue to work with you to achieve effective and efficient joint regulation of mining in Nevada.

**Thank** you.